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DESHAWN WILLIAMS

ELECTRONICALLY FILED
Superior Court of California
County of Sonoma
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**SUPERIOR COURT OF THE STATE OF CALIFORNIA,
COUNTY OF SONOMA**

DESHAWN WILLIAMS, an individual,
on his own behalf and on behalf of all
others similarly situated,

Plaintiffs,

vs.

SOCO PRIVATE SECURITY, INC., a
California corporation; and DOES 1
through 100, inclusive,

Defendants.

Case No.: 24CV04733

[Assigned for all purposes to Hon. Bradford
DeMeo, in dept. 17]

**FIRST AMENDED CLASS ACTION
COMPLAINT**

1. Failure To Pay Premium Overtime Wages Due (Cal. *Labor Code* §§ 510, 1198);
2. Failure To Pay Minimum Wages Due to Rounding (Cal. *Labor Code* §§1194, 1194.2, 1997, 1197.1, 1198);
3. Failure To Provide Timely Off Duty Meal Periods (Cal. *Labor Code* §§ 226.7, 512);
4. Failure To Provide Timely Off Duty Rest Periods (Cal. *Labor Code* §§ 226.7, 512);
5. Failure To Maintain Records and Provide Accurate Itemized Wage Statements (Cal. *Labor Code* §226);
6. Failure To Pay Wages Due on Termination (Cal. *Labor Code* §§ 201-203);
7. Unlawful Deductions of Wages (Cal. *Labor Code* §221);
8. Failure To Allow Inspection of Employment Records (Cal. *Labor Code* §1198.5);
9. Unfair Competition (Cal. *Bus. & Prof. Code* §§17200 *Et Seq.*); And
10. Private Attorney General Act (“Paga”)

1 All allegations in this First Amended Complaint are based upon information and belief
2 except for those allegations which pertain to the Plaintiff named herein and his counsel. Each
3 allegation has evidentiary support or is likely to have evidentiary support after a reasonable
4 opportunity for further investigation and discovery.

5 DESHAWN WILLIAMS (“Plaintiff”) alleges the following:

6 1. This is a class action brought under California law by an individual who was
7 employed by SOCO Private Security, Inc. (“SPS”) (along with DOES 1 through 100, collectively
8 “Defendants”). Plaintiff brings this action on behalf of himself, and others similarly situated to
9 recover wages from Defendant due to Defendant’s systematic failure to pay overtime wages,
10 failure to pay minimum wages due to rounding, failure to provide meal/rest breaks (or pay the
11 statutory compensation due), failure to issue accurate wage statements, failure to pay all wages
12 on termination, unlawful deduction of wages, and failure to allow inspection of employment
13 records.

14 2. Plaintiffs have worked as employees for Defendant’s private security company in
15 Santa Rosa, California. While working, Plaintiffs have been forced to endure stressful and illegal
16 workplace conditions created by Defendant’s efforts to maximize profits and tightly control labor
17 costs.

18 3. Plaintiff, like his co-workers whom Defendant also employed during the
19 applicable limitations period, spend their workdays at Defendant’s clients’ sites in California,
20 under illegal and highly regimented circumstances. That regimen results from Defendant’s
21 insistence to strictly monitor and curtail labor costs, which Defendant accomplishes by not paying
22 for all labor costs, failing to pay overtime, failing to pay minimum wages, refusing to provide
23 timely meal/rest periods, not paying the required extra hour for missed meal breaks, failing to
24 issue accurate wage statements, failure to pay all wages on termination, unlawfully deducting
25 wages, failing to allow inspection of employment records, and by using other unlawful stratagems
26 to ensure that labor costs remain artificially low.

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4. Plaintiff brings this class action to recover, among other things, wages and penalties from unpaid wages earned and due, including but not limited to, premium overtime wages, minimum wages due to illegal rounding, late meal/rest break wages, penalties for failure to provide accurate itemized wage statements, wages for failure to issue all wages on termination, wages unlawfully deducted, failure to allow inspection of employment records and interest, attorneys' fees, costs, and expenses.

5. Plaintiff seeks compensatory, statutory, declaratory, and injunctive relief for himself and all members of the class, to compensate these workers for the unpaid wages and to protect current and future workers of Defendant from being subjected to similar wage theft and otherwise unlawful working conditions.

6. Plaintiff also brings an action seeking relief for Defendant's violations of California *Business & Professions Code* §§ 17200 *et seq.*, including full restitution and disgorgement of all compensation retained by Defendant as a result of its unlawful and unfair business practices, as well as injunctive relief.

7. Plaintiff now seeks to amend his Complaint to add a cause of action pursuant to PAGA under Labor Code §§ 2699, et seq.

JURISDICTION AND VENUE

8. This Court has jurisdiction over this First Amended Complaint under Code of Civil Procedure §410.10. This action is brought under *Code of Civil Procedure* § 382, and *Business & Professions Code* §§ 17200 *et seq.* Plaintiff Deshawn Williams brings this First Amended Complaint on his own behalf and on behalf of all persons in the Class as defined in paragraph 16 below.

9. Venue is proper in this Court pursuant to *Code of Civil Procedure* §§ 395 and 395.5, because the claims made, and the *Labor Code* violations as against the persons identified herein, occurred in the County of Sonoma and because Defendant owned and operated its business in the County of Sonoma.

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1 **THE PARTIES**

2 **PLAINTIFF**

3 10. At all times relevant hereto, Plaintiff was:

- 4 (a) An individual over age 18 and a resident of Contra Costa County,
5 California;
- 6 (b) Employed as an hourly employee for Defendant in Santa Rosa, California;
- 7 (c) Did not receive overtime compensation required by *Labor Code* §§510 and
8 1194 and the applicable Wage Orders;
- 9 (d) Did not receive minimum wages due to illegal rounding in violation of
10 *Labor Code* §§1194, 1194.2, 1997, 1197.1, 1198 and the applicable Wage
11 Orders;
- 12 (e) Did not receive the meal/rest periods required by *Labor Code* §266.7 and
13 the applicable Wage Orders;
- 14 (f) Did not receive accurate wage statements as mandated by *Labor Code*
15 §226;
- 16 (g) Had his wages unlawfully deducted in violation of *Labor Code* §221; and
- 17 (h) Was not provided his personnel records. Each of these was a violation of
18 the *Labor Code*.

19 **DEFENDANT**

20 11. Plaintiff is informed and believes, and based on that information and belief,
21 alleges, Defendant SPS is, and at all times mentioned herein was:

- 22 (a) A California corporation, with a principal place of business at 1240 Briggs
23 Avenue, Santa Rosa, CA 95401. Defendant has been authorized to do
24 business and has been doing business in the County of Sonoma;
- 25 (b) The former employer of Plaintiff and the current and former employer of
26 the putative Class members;
- 27 (c) Paid Plaintiff and all Class Members on an hourly basis;
- 28

- (d) Failed to pay Plaintiff and all putative Class members premium overtime wages;
- (e) Failed to pay Plaintiff and all putative Class members minimum wages due to illegal rounding;
- (f) Failed to provide Plaintiff and all putative Class members with meal/rest periods and failed to provide Plaintiff and all putative Class members with accurate itemized wage statements;
- (g) Unlawfully deducted Plaintiff's and Class members wages; and
- (h) Was not provided his personnel records. Each of these was a violation of the *Labor Code*.

12. The true names and capacities, whether individual, corporate, subsidiary, partnership, associate or otherwise of Defendants DOES 1 through 100, inclusive, are unknown to Plaintiff, who therefore sues these Defendants by such fictitious names pursuant to *Code of Civil Procedure* § 474. Plaintiff will seek leave to amend his Complaint to allege the true names and capacities of DOES 1 through 100, inclusive, when they are ascertained.

13. Plaintiff is informed and believes, and based on that information and belief alleges, that Defendant DOES 1 through 100 are persons, corporations or other entities which reside in or are authorized to do, or are otherwise doing, business in the State of California. Specifically, DOES 1 through 100 maintain offices, operate businesses, employ persons, and conduct business in the County of Sonoma. Each of the Defendants DOES 1 through 100 was the managerial agent, employee, predecessor, successor, joint-venturers, co-conspirator, alter ego and/or representative of one or more of the other Defendants named herein, and acting with permission, authorization, and/or ratification and consent of the other Defendants.

14. Plaintiff is informed and believes, and based on that information and belief alleges, that the Defendants named in this First Amended Complaint, including DOES 1 through 100, inclusive, are responsible in some manner for one or more of the events and happenings that proximately caused the injuries and damages hereinafter alleged.

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15. Plaintiff is informed and believes, and based on that information and belief alleges, that Defendants named in this First Amended Complaint, including DOES 1 through 100, inclusive, are, and at all times mentioned herein were, the agents, servants, and/or employees of each of the other Defendants and that each Defendant was acting within the course and scope of his, hers or its authority as the agent, servant and/or employee of each of the other Defendants. Consequently, all of the Defendants are jointly and severally liable to the Plaintiff, and the Class, for the damages sustained as a proximate result of their conduct.

16. Plaintiff is informed and believes, and based on that information and belief alleges, that the Defendants named in this First Amended Complaint, including DOES 1 through 100, inclusive, knowingly and willfully acted in concert, conspired and agreed together among themselves and entered into a combination and systemized campaign of activity to *inter alia* damage Plaintiff, and the Class, and to otherwise consciously and/or recklessly act in derogation of the rights of Plaintiff and the Class, and the trust reposed by Plaintiff, and the Class, in each of the Defendants, the acts being negligently and/or intentionally inflicted. Their conspiracy, and Defendants' concerted actions, were such that, to Plaintiff's information and belief, and to all appearances, Defendants, and each of them, represented a unified body so that the actions of one Defendant was accomplished in concert with, and with the knowledge, ratification, authorization and approval of each of the other Defendants.

CLASS ALLEGATIONS

A. The Definition of the Class

17. The Class (“the Class”) is defined as follows:

(a) “All current and former employees who were hourly paid employees of Defendant and worked for Defendant in California at any time during the period commencing on the date that is four (4) years prior to the filing of this Complaint and continuing through the present date (the “Class Period”).”

(b) “All persons who were hourly paid employees of Defendant and worked for SPS in California and left the employ of Defendant at any time during the period commencing on the date that is within one (1) year prior to the filing of this Complaint and continuing through the present date (the “Class Period”).”

Plaintiff reserves his right under Rule 3.765 of the California Rules of Court to amend or modify the Class description with greater specificity or further division into subclasses or limitation to particular issues.

1 **B. Maintenance of the Action**

2 18. Plaintiff brings this action individually and on behalf of himself and as
3 representative of all similarly situated persons under *Business & Professions Code* §§ 17203 and
4 17204 and *Code of Civil Procedure* § 382.

5 **C. The Class Requisites**

6 19. At all material times, Plaintiff was a member of the Class.

7 20. The Class action meets the statutory prerequisites for maintaining a class action
8 under Code of Civil Procedure § 382 in that:

9 (a) The persons who comprise the Class are so numerous that the joinder of all
10 those persons is impracticable and the disposition of their claims as a Class
11 will benefit the parties and the Court;

12 (b) Nearly all factual, legal, statutory, declaratory and injunctive relief issues
13 that are raised in this First Amended Complaint are common to the Class and
14 will apply uniformly to every Class member;

15 (c) The claims of the representative Plaintiff are typical of the claims of each
16 Class member. Plaintiff, like all Class members, has sustained damages
17 arising from Defendant's violations of the laws of the State of California.
18 Plaintiff, and the Class members, were and are similarly or identically
19 harmed by the same unlawful, deceptive, unfair, systematic and pervasive
20 pattern of misconduct engaged in by the Defendant;

21 (d) The representative Plaintiff has, and will continue to, fairly and adequately
22 represent and protect the interests of the Class and has retained counsel who
23 are competent and experienced in class action litigation. There are no
24 material conflicts between the claims of the representative Plaintiff and the
25 Class members that would make class certification inappropriate. Counsel
26 for the Class will vigorously assert the claims of all Class members.

27 21. The persons who comprise the Class are so numerous that joining all of them is
28 impracticable, and jointly adjudicating their claims will benefit the parties and the Court.

Plaintiff's claims are typical of the claims of the Class that Plaintiff seeks to represent. Plaintiff will fairly and adequately protect the interests of the Class he seeks to represent. Plaintiff does not have any interests that are antagonistic to the Class he seeks to represent. Counsel for Plaintiff are experienced, qualified and generally able to conduct complex class action litigation.

22. The Court should permit the action to be maintained as a class action under *Code of Civil Procedure* § 382 because:

- (a) The questions of law and fact common to the Class predominate over any question affecting only individual members;
- (b) A class action is superior to any other available method for fairly and efficiently adjudicating the claims of the Class;
- (c) The Class members are so numerous that it is impractical to bring all of them before the Court;
- (d) Plaintiff and other Class members will not be able to obtain effective and economic legal redress unless the action is maintained as a class action;
- (e) There is a community of interest in obtaining appropriate legal and equitable relief for the statutory violations, and in obtaining adequate compensation for the damages and injuries for which Defendant is responsible in an amount sufficient to adequately compensate the Class members;
- (f) Without Class certification, the prosecution of separate actions by individual Class members would create a risk of:
 - i. Inconsistent or varying adjudications for individual Class members that would establish incompatible standards of conduct for Defendant; and/or,
 - ii. Adjudication for individual Class members that would, as a practical matter, dispose of other non-party members' interests, or that would substantially impair or impede the non-parties' ability to protect their

1 interests, by, for example, potentially exhausting the funds available
2 from Defendant, and

3 (g) Defendant has acted or refused to act on grounds generally applicable to the
4 Classes, making final injunctive relief appropriate for the Class, as a whole.

5 23. Plaintiff contemplates eventually issuing notice to the proposed Class Members
6 that would set forth the subject and nature of the action. The Defendant's own business records
7 may be utilized for assisting to prepare and issue the contemplated notice. To the extent that any
8 further notices may be required, Plaintiff would contemplate using additional media and/or
9 mailing.

10 **GENERAL ALLEGATIONS**

11 24. At all times material hereto, Defendant has been and is, a private security
12 company.

13 25. Plaintiff and members of the Class were employed as Security Guards and other
14 non-exempt employees by Defendant in California at various times during the Class Period.

15 26. The employment by Defendant of the Class Members, and each them, is governed
16 by Industrial Welfare Commission Wage Order 4, which covers those persons employed in the
17 Professional, Technical, Clerical, Mechanical, and Similar Occupations.

18 **THE CONDUCT**

19 27. Plaintiff seeks relief from Defendant's uniform policies and practices of denying
20 Plaintiff and members of the Class wages and compensation owed under California law.

21 28. Starting in or about August 1, 2022, and continuing to June 17, 2024, Defendant
22 employed Plaintiff on an hourly basis as a Security Guard at various locations in Santa Rosa,
23 California and Costa County, California.

24 29. While employed by Defendant as a Security Guard, Plaintiff was paid
25 approximately \$27.00 per hour.

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FAILURE TO PAY OVERTIME AND MINIMUM WAGES DUE TO ROUNDING

30. Under California law, non-exempt employees, as defined by the applicable Wage Order, are entitled to premium wages for overtime worked. Under California law, an hourly paid employee is entitled to overtime pay when they exceed eight hours of work in a single day, exceed 40 hours of work in a week or work seven days in a row.

31. Under California law, non-exempt employees, as defined by the applicable Wage Order, are entitled to minimum wages. Labor Code Section 1197 states the California requirement that employees must be paid at least the minimum wage fixed by the Commission or by any applicable state or local law, and any payment of less than the minimum wage is unlawful. Similarly, Labor Code Section 1194 entitles “any employee receiving less than the legal minimum wage...is entitled to recover in a civil action the unpaid balance of the full amount of this minimum wage.” IWC Wage Order No. 4, obligates employers to pay each employee minimum wages for all hours worked.

32. These minimum wage standards apply to each hour employees worked or were subject to control by the employer for which they were not paid. Therefore, an employer’s failure to pay for any particular hour of time worked by an employee or subject to the employer’s control is unlawful, even if averaging an employee’s total pay over all hours worked, paid or not, results in an average hourly wage above minimum wage. *Armenta v. Osmose, Inc.*, 135 Cal. App. 4th 314, 324 (2005).

33. Defendant required Plaintiff and Class members to work 9-hour shifts. However, Plaintiff’s wage statements show that he was only paid for 8 hours per day. Thus, it is apparent that Defendant deducted his two 15-minute rest breaks from his pay. As a result, Defendant failed to pay Plaintiff and Class members all overtime wages due.

34. Plaintiff and the Class were not paid minimum wages due to rounding. Plaintiff’s paystubs show rounded hours. Plaintiff and Class members would, at times, arrive early for their shifts and clock in early. However, Plaintiff’s paystubs were rounded since they always manifest an even number. Although Plaintiff clocked in for his shift early, he did not get paid for the time prior to the start of his shift time because Defendant rounded down his and Class members’ time.

1 35. At all times during the relevant time period, Plaintiff and the Class routinely
2 worked schedules such that they were due pay at overtime and minimum wage rates. During this
3 period, it was the practice and policy of Defendant not to pay employees' overtime and minimum
4 wages. Monies for unpaid overtime and minimum wages remain due and owing.

5 **FAILURE TO AFFORD PROPER MEAL BREAKS**

6 36. Under California law, non-exempt employees, as defined by Wage Order No. 4,
7 are entitled to premium wages for overtime worked, a 30-minute lunch period for every 5 hours
8 worked, or a major fraction thereof. Non-exempt employees are entitled to one-hour pay at their
9 regular pay rate for each day the requisite meal periods are not provided.

10 37. Plaintiff and Class Members were required to carry and respond to calls on their
11 personal phones and work radios during their meal breaks. As a result, all meal breaks were on
12 duty.

13 38. Defendant's policies and procedures were applied to all non-exempt employees in
14 California and resulted in non-exempt employees working time which was not compensated by
15 any wages in violation of Labor Code sections 510, 1194 and Wage Order No. 4. As a result,
16 Defendant owes wages at the legal overtime rate for unpaid overtime to each of their California
17 non-exempt employees whose daily hours were reduced even though their meals periods were
18 not properly afforded.

19 **REST PERIODS NOT PROPERLY AFFORDED**

20 39. Plaintiff and Class Members were required to carry and respond to calls on their
21 personal cell phones and work radios during their rest breaks. As a result, all rest breaks were on
22 duty.

23 40. Additionally, Plaintiff was not paid for his rest periods since he was only paid for
24 an 8-hour shift when he worked a 9-hour shift.

25 **FAILURE TO ISSUE ACCURATE WAGE STATEMENTS**

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1 41. As a result of Defendant’s failure to pay employees at required overtime rates,
2 minimum wages due to illegal rounding and premium pay for meal/rest breaks not afforded, the
3 wage statements issued to the employees did not comply with *Labor Code* §226 and the
4 California Industrial Welfare Commission (“IWC”) Wage Order No. 4 in that they did not
5 accurately reflect all wages earned and due and owing.

6 **FAILURE TO PAY WAGES ON TERMINATION**

7 42. As a further result of Defendant’s failure to pay employees at required overtime
8 rates, minimum wages, afford proper meal/rest breaks, when the employees left their employ,
9 they were not timely paid all wages due them, as required by Labor Code §§ 201, 202 and IWC
10 Wage Order No. 4.

11 43. Further, it was the practice of Defendant to not pay employees the final paychecks
12 within the time periods mandated by Labor Code §§ 201, 202 and IWC Wage Order No. 4.

13 **UNLAWFUL DEDUCTION OF WAGES**

14 44. Defendant unlawfully deducted Plaintiff’s and Class members’ wages. Plaintiff’s
15 paystubs show deductions for “FTB Garnishment” and “CalSavers2024”.

16 **FAILURE TO ALLOW INSPECTION OF PERSONNEL RECORDS**

17 45. Defendant failed to allow Plaintiff and Class members to inspect their records and
18 payroll files timely.

19 **FIRST CAUSE OF ACTION**

20 **FAILURE TO PAY OVERTIME**

21 **(Labor Code §§510, 558, 1194.3 and IWC Wage Order No. 4 by Plaintiffs Against**
22 **Defendant and Does 1-100)**

23 46. Plaintiff and the Class reallege and incorporate by reference all of the allegations
24 set forth in this First Amended Complaint.

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1 47. During Plaintiff's entire employment with Defendant, pursuant to Cal. Lab. Code
2 §§510, 1194, and 1198, and IWC Wage Order No. 4, Defendant was required to compensate
3 Plaintiff with premium pay for all overtime work performed, for hours worked in excess of eight
4 (8) hours per day and/or forty (40) hours per week and for the first eight (8) hours on the seventh
5 (7th) consecutive day of any work week.

6 48. At all times relevant herein, Cal. Lab. Code §1194(a) provided that an employee
7 who had not been paid overtime compensation could recover the unpaid balance of the full
8 amount of overtime wages due, including interest thereon, together with reasonable attorneys'
9 fees and costs of suit.

10 49. Pursuant to IWC Wage Order No. 4, § 3, "Employment beyond eight (8) hours in
11 any workday is permissible provided the employee is compensated for such overtime at not less
12 than: (a) One and one-half (1 1/2) times the employee's regular rate of pay for all hours worked
13 in excess of eight (8) hours up to and including twelve (12) hours in any workday...

14 50. California Labor Code section 558 provides in pertinent part:

15 (a) Any employer or other person acting on behalf of an employer who
16 violates, or causes to be violated, a section of this chapter or any provision
17 regulating hours and days of work in any order of the Industrial Welfare
Commission shall be subject to a civil penalty as follows:

18 (1) For any initial violation, fifty dollars (\$50) for each underpaid
19 employee for each pay period for which the employee was underpaid in
addition to an amount sufficient to recover underpaid wages.

20 (2) For each subsequent violation, one hundred dollars (\$100) for each
21 underpaid employee for each pay period for which the employee was
22 underpaid in addition to an amount sufficient to recover underpaid wages.

23 (3) Wages recovered pursuant to this section shall be paid to the affected
24 employee...

25 (c) The civil penalties provided for in this section are in addition to any
26 other civil or criminal penalty provided by law.

27 51. Throughout Plaintiff's employment, Plaintiff worked overtime hours and was not
28 paid overtime pay due to Defendant.

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52. Specifically, Plaintiff worked a 9-hour shift. However, he was only paid for an 8-hour shift. Defendant deducted two 15-minute rest breaks from Plaintiff's and Class members' pay.

53. Throughout Plaintiff's employment, Defendant failed and refused to pay and properly calculate overtime compensation to Plaintiff and Class Members as required by law.

54. The foregoing overtime compensation is owed and unpaid. As a direct and proximate result of Defendant's failure and refusal to pay overtime, Plaintiff and Class Members suffered damages in an amount to be proven at trial.

55. Pursuant to Cal. Lab. Code §1194(a), Plaintiff, who retained the services of legal counsel in order to enforce Plaintiff's rights to overtime pay, is entitled to recover Plaintiff's attorneys' fees, costs and interest.

SECOND CAUSE OF ACTION

FAILURE TO PAY MINIMUM WAGES DUE TO TIME ROUNDING

(IWC Wage Order No. 4; Labor Code §§ 1194, 1194.2, 1997, 1197.1, 1198 By Plaintiffs

Against Defendant and Does 1 through 100)

56. Plaintiff and the Class reallege and incorporate by reference all of the allegations set forth in this First Amended Complaint.

57. Labor Code §§ 1194(a) states: “Notwithstanding any agreement to work for a lesser wage, any employee receiving less than the legal minimum wage or the legal overtime compensation applicable to the employee is entitled to recover in a civil action the unpaid balance of the full amount of this minimum wage or overtime compensation, including interest thereon, reasonable attorney's fees, and costs of suit.”

58. *Labor Code* § 1197 states the California requirement that employees must be paid at least the minimum wage fixed by the Commission, and any payment of less than the minimum wage is unlawful. Similarly, *Labor Code* § 1194 entitles “any employee receiving less than the legal minimum wage...entitled to recover in a civil action the unpaid balance of the full amount of this minimum wage.” IWC Wage Order 4-2001 also obligates employers to pay each employee minimum wages for all hours worked.

1 59. These minimum wage standards apply to each hour employees worked for which
2 they were not paid. Therefore, an employer’s failure to pay for any particular hour of time worked
3 by an employee is unlawful, even if averaging an employee’s total pay over all hours worked,
4 paid or not, results in an average hourly wage above minimum wage. *Armenta v. Osmose, Inc.*,
5 135 Cal. App. 4th 314, 324 (2005).

6 60. Pursuant to IWC Wage Order No. 4, Defendant is required to pay the members of
7 the Class for all hours worked, meaning the time during which an employee is subject to the
8 control of an employer, including all the time the employee is suffered or permitted to work,
9 whether or not required to do so.

10 61. Furthermore, pursuant to *Labor Code* § 1198, “[t]he maximum hours of work and
11 the standard conditions of labor fixed by the commission shall be the maximum hours of work
12 and the standard conditions of labor for employees. The employment of any employee for longer
13 hours than those fixed by the order or under conditions of labor prohibited by the order is
14 unlawful.”

15 62. Defendant failed to satisfy minimum wage requirements because they improperly
16 rounded down Plaintiff’s actual hours worked in violation of *Labor Code* §§ 1197, 1198 and IWC
17 Wage Order No. 4.

18 63. Defendant’s pattern, practice and uniform administration of corporate policy
19 regarding illegal employee compensation as described herein is unlawful and creates an
20 entitlement, pursuant to *Labor Code* § 218, to recovery by Plaintiff and the members of the Class,
21 in a civil action, of the unpaid balance of the full amount of wages owing, calculated at the
22 appropriate rate.

23 64. *Labor Code* § 1194.2 allows an employee to recover liquidated damages in an
24 amount equal to the wages unlawfully unpaid and interest thereon for any action under *Labor*
25 *Code* § 1194. Where an employee, such as Plaintiff and the other Class members, are not paid for
26 all hours worked under *Labor Code* § 1194, the employee may recover minimum wages for the
27 time associated with the overtime for which they received no compensation. *See Sillah v.*
28 *Command Int’l Sec. Servs.*, 154 F. Supp. 3d 891 (N.D. Cal. 2015) (holding that employees suing

1 for failure to pay overtime could recover liquidated damages under § 1194.2 if they also showed
2 they were paid less than minimum wage); *accord Andrade v. Arby's Rest. Grp., Inc.*, 225 F. Supp.
3 3d 1115, 1132-33 (N.D. Cal. 2016).

4 65. Plaintiff and the other Class Members suffered and continue to suffer losses
5 related to the use and enjoyment of compensation due and owing to them as a direct result of
6 Defendant's unlawful acts and Labor Code violations in an amount to be shown according to
7 proof at trial and within the jurisdictional limitations of this Court.

8 66. Therefore, pursuant to Labor Code §§200, 218.5, 558 and 1194, Plaintiff and the
9 Class are entitled to recover the unpaid balances of the minimum wages Defendant owes them,
10 plus interest, penalties, attorneys' fees, expenses and costs of suit, in amounts according to proof.

11 **THIRD CAUSE OF ACTION**

12 **FOR FAILURE TO PROVIDE TIMELY OFF-DUTY MEAL PERIODS**

13 **(IWC Wage Order No. 4; Labor Code §§ 226.7, 512 By Plaintiffs Against Defendant and**
14 **Does 1 through 100)**

15 67. Plaintiff and the Class reallege and incorporate by reference all of the allegations
16 set forth in this First Amended Complaint.

17 68. California Labor Code §226.7(a) prohibits an employer from requiring an
18 employee to work during any meal period mandated by an applicable Industrial Wage Order.
19 Section 226.7(b) of the California Labor Code provides that "[a]n employer shall not require an
20 employee to work during a meal or rest break or recovery period mandated pursuant to an
21 applicable statute, or applicable regulation, standard, or order of the Industrial Welfare
22 Commission..."

23 69. California Labor Code §1198 makes unlawful the employment of an employee
24 under conditions the IWC prohibits.

25 70. Wage Order No. 4 provides, in relevant part: "No employer shall employ any
26 person for a work period of more than five (5) hours without a meal period of not less than 30-
27 minutes, except that when a work period of not more than six (6) hours will complete the day's
28 work the meal period may be waived by mutual consent of the employer and the employee."

1 71. IWC Wage Order No. 4, section (11)(c) further provides, in relevant part: "Unless
2 the employee is relieved of all duty during a 30-minute meal period, the meal period shall be
3 considered an 'on duty' meal period and counted as time worked."

4 72. Section 512(a) of the California Labor Code provides, in relevant part, that:

5 An employer may not employ an employee for a work period of more than five
6 hours per day without providing the employee with a meal period of not less than
7 30-minutes, except that if the total work period per day of the employee is no
8 more than six hours, the meal period may be waived by mutual consent of both
9 the employer and employee. An employer may not employ an employee for a
10 work period of more than 10 hours per day without providing the employee with
11 a second meal period of not less than 30-minutes, except that if the total hours
worked is no more than 12 hours, the second meal period may be waived by
mutual consent of the employer and the employee only if the first meal period
was not waived.

12 73. The Labor Code and Wage Order No. 4 provisions cited above require California
13 employers to provide employees with off-duty 30-minute meal periods on or before the fifth hour
14 of their shifts. To satisfy this obligation, California employers must: (1) make employees aware
15 of their right to off-duty 30-minute meal periods before the fifth hour of their shifts, and (2) ensure
16 that employees are actually free of job duties for thirty minutes per day on or before the fifth hour
17 of their shifts.

18 74. As alleged herein, Defendant failed to relieve employees of duties for meal breaks
19 throughout the Class Period. Plaintiff and the members of the Class's meal periods were not
20 properly afforded since they were required to carry and respond on their personal cell phones and
21 work radios during their meal breaks.

22 75. Under California law, employers must also record their employees' meal periods:
23 "Every employer shall keep accurate information with respect to each employee, including the
24 following: ... Meal periods ... shall also be recorded. Meal periods during which operations cease
25 ... need not be recorded." IWC Wage Order No. 4, § (7)(A)(3). Where the employer has failed to
26 keep records required by statute, the consequences of such failure should fall on the employer,
27 not the employee. In such a situation, imprecise evidence by the employee can provide a sufficient
28 basis for liability." *Hernandez v. Mendoza*, 199 Cal. App. 3d 721, 727 (1988).

76. Inasmuch as Defendant had an obligation under the record-keeping requirements of the Wage Order to track meal periods unless "all work ceases," Defendant knew or should have known its employees were regularly affording late meal periods during the Class Period.

77. Defendant has a policy or practice of failing to ensure that Plaintiff and members of the class take off-duty meal periods required by California Labor Code §226.7 and Wage Order No. 4, §11. Further, Defendant did not require Plaintiff and Class members to clock in/out for their meal breaks on time clocks.

78. By their actions in affording Plaintiff and Class members improper meal periods, Defendant violated Cal. Lab. Code §226.7(b) and section 11 of Wage Order No. 4 in the amount of one additional hour of pay at the employee's regular rate of compensation for each work period during each day in which Defendant failed to provide employees with statutory timely off-duty meal periods.

79. Defendant also has a policy or practice of failing to pay each of their employees who was provided with an on-duty meal period an additional one hour of compensation at each employee's regular rate of pay.

80. Cal. Labor Code § 218 authorizes Plaintiff and the members of the Class to bring a private right of action to recover wages due based on the deprivation of timely meal periods under Cal. Labor Code § 226.7(b).

81. As a direct and proximate result of Defendant's unlawful conduct as alleged herein, Plaintiff and members of the Class have sustained economic damages, including but not limited to unpaid wages and lost interest, in an amount to be established at trial, and are entitled to recover economic and statutory damages, attorneys' fees and penalties and other appropriate relief due to Defendant's violations of the California Labor Code and the applicable IWC Wage Orders.

FOURTH CAUSE OF ACTION

FOR FAILURE TO PROVIDE TIMELY OFF-DUTY REST PERIODS

(IWC Wage Order No. 4; Labor Code §§ 226.7, 512 By Plaintiffs Against Defendant and Does 1 through 100)

82. Plaintiff and the Class reallege and incorporate by reference all of the allegations set forth in this First Amended Complaint.

83. Labor Code § 226.7 and Wage Order No. 4 provide that employers shall authorize and permit all employees to take rest periods at the rate of ten minutes net rest time per four hours of work, or major fraction thereof.

84. Labor Code § 226.7 and IWC Wage Order No. 4 provide that if an employer fails to provide an employee with rest periods in accordance with those provisions, the employer shall pay the employee one hour of pay at the employee's regular rate of compensation for each workday that the rest periods were not so provided.

85. Defendant has intentionally and improperly denied uninterrupted rest periods to Plaintiff and the Class in violation of Labor Code § 226.7 and Wage Order No. 4.

86. At all times relevant hereto, Plaintiff and members of the Class have worked 9 hours daily.

87. At all times relevant hereto, Defendant failed to provide rest periods as required by Labor Code § 226.7 and Wage Order No. 4. Plaintiff and Class members' rest breaks were routinely not afforded. Specifically, Plaintiff and Class Members were required to carry and respond to calls on their personal cell phones and work radios during their rest breaks. As a result, all rest breaks were on duty.

88. By virtue of Defendant's unlawful failure to provide rest periods to Plaintiff and the Class, Plaintiff and the Class have suffered, and will continue to suffer, damages in amounts which are presently unknown to Plaintiff and the Class, but which exceed the jurisdictional limits of the Court, and which will be ascertained according to proof at trial.

FIFTH CAUSE OF ACTION

FOR FAILURE TO MAINTAIN RECORDS AND PROVIDE ACCURATE ITEMIZED

WAGE STATEMENTS

(Labor Code §226 By Plaintiffs Against Defendant and Does 1 through 100)

89. Plaintiff and the Class reallege and incorporate by reference all of the allegations set forth in this First Amended Complaint.

1 90. Pursuant to IWC Wage Order No. 4, Defendant was the employer of Plaintiff and
2 the Class.

3 91. Pursuant to California Labor Code sections 226 and 1174 and Wage Order No. 4,
4 section 7, Defendant is required to maintain and provide accurate records relating to employee
5 compensation, including all formulas and production records used to calculate wages due.

6 92. Defendant is further required to provide, *inter alia*, semimonthly or at the time of
7 each payment of wages, an accurate itemized statement showing (1) gross wages earned; (2) all
8 deductions from wages; (3) net wages earned; (4) the inclusive dates of the period for which the
9 employee is being paid; (5) the name of the employee; and (6) the name and address of the legal
10 entity that is the employee's actual employer. Cal. Labor Code §226(a).

11 93. Section 226(e) provides that an employee is entitled to recover \$50 for the initial
12 pay period in which a violation of Section 226 occurs and \$100 for each subsequent pay period,
13 not to exceed \$4,000, plus an award of costs and reasonable attorneys' fees, for all pay periods in
14 which the employer knowingly and intentionally failed to provide accurate itemized statements
15 to the employee causing the employee to suffer injury.

16 94. Notwithstanding these provisions. Defendant has engaged in a uniform practice
17 of refusing to maintain and provide the accurate records and wage statements required by
18 California law.

19 95. Throughout the Class Period, Defendant intentionally and knowingly provided
20 Plaintiff and other members of the Class with weekly itemized wage statements containing
21 inaccurate information regarding the wages earned by Plaintiff and members of the Class in that
22 the payments owed to Plaintiff and the members of the Class for overtime compensation,
23 minimum wages, on-duty meal/rest periods, were not included in gross wages earned by Plaintiff
24 and members of the Class.

25 96. As a result, Plaintiff and members of the Class have been injured by having been
26 deprived of the true facts pertaining to their compensation and employment.

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97. Plaintiff and members of the Class were damaged by these failures because, among other things, the failures led them to believe that they were not entitled to overtime compensation, minimum wages, or pay for meal/rest periods not properly provided, even though they were so entitled and these failures hindered them from determining the amounts of wages owed to them.

98. Plaintiff and members of the Class are entitled to the amounts provided in Labor Code §226(e), plus attorneys' fees and costs.

99. As a result, Plaintiff seeks recovery of the penalties authorized by Labor Code sections 226(e) and 558 and such other penalties and legal and equitable remedies as are provided by law for Defendant's improper conduct.

SIXTH CAUSE OF ACTION

FOR FAILURE TO PAY WAGES UPON TERMINATION

(Labor Code §§201-203 By Plaintiffs against Defendants and Does 1 through 100)

100. Plaintiff and the Class reallege and incorporate by reference all of the allegations set forth in this First Amended Complaint.

101. Labor Code § 201(a) provides that a discharged employee's unpaid wages are due and payable immediately. Labor Code § 202(a) provides that when an employee resigns from employment, unpaid wages are due and payable within 72 hours of resignation.

102. Labor Code § 203(a) provides that if an employer willfully fails to pay wages as mandated by Labor Code §§ 201 and 202, the employee's wages shall continue to accrue until paid, not to exceed thirty days.

103. Plaintiff and the Class were discharged and/or resigned from Defendant's employ and Defendant willfully failed to pay Plaintiff and the Class wages due them.

104. Under Labor Code § 203(a), Plaintiff and the Class are entitled to one day's wages for each day he or she was not timely paid, not to exceed 30 days' wages.

SEVENTH CAUSE OF ACTION

UNLAWFUL DEDUCTION OF WAGES

(Cal. Labor Code §221 By Plaintiffs Against Defendant and Does 1 through 100)

105. Plaintiff and the Class reallege and incorporate by reference all of the allegations set forth in this First Amended Complaint.

106. California Labor Code § 221 states that “[i]t shall be unlawful for any employer to collect or receive from an employee any part of wages theretofore paid by said employer to said employee.”

107. Labor Code § 221 reflects “California's strong public policy favoring the protection of employees' wages.” *Sciborski v. Pacific Bell Directory* (2012) 205 Cal. App. 4th 1152, 1166.

108. Furthermore, Labor Code § 219 states that the protections of Labor Code § 221 cannot “be contravened or set aside by a private agreement.” Therefore, the rights under Labor Code § 221 are nonnegotiable and cannot be waived by the parties. *See Sciborski*, 205 Cal. App. 4th at 1166. Also, under Labor Code §§ 219 and 221, an employer may not “require its employees to consent to unlawful deductions from their wages.” *Hudgins v. Neiman Marcus Group, Inc.* (1995) 34 Cal. App. 4th 1109, 1124.

109. As previously alleged herein, Defendant engaged in the unlawful deduction of Plaintiff and Class members' wages. Plaintiff's paystubs show deductions for "FTB Garnishment" and "CalSavers2024".

110. As a result of Defendant's violations of Labor Code § 221, Plaintiff and Class members seek to recover the total amount of wages unlawfully deducted, as well as penalties, interest, attorneys' fees, and costs as permitted under California law.

EIGHTH CAUSE OF ACTION

FAILURE TO ALLOW INSPECTION OF EMPLOYMENT RECORDS

(Labor Code §1198.5 By Plaintiffs Against Defendant and Does 1 through 100)

111. Plaintiff and the Class reallege and incorporate by reference all of the allegations set forth in this First Amended Complaint.

112. California Labor Code Section 1198.5 provides:

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1 (a) Every current and former employee, or his or her representative, has the right
2 to inspect and receive a copy of the personnel records that the employer
3 maintains relating to the employee's performance or to any grievance
concerning the employee.

4 (b) The employer shall make the contents of those personnel records available
5 for inspection to the current or former employee, or his or her representative,
6 at reasonable intervals and at reasonable times, but not later than 30 calendar
7 days from the date the employer receives a written request, unless the current
8 or former employee, or his or her representative, and the employer agree in
9 writing to a date beyond 30 calendar days to inspect the records, and the
10 agreed-upon date does not exceed 35 calendar days from the employer's
receipt of the written request to inspect the records. Upon a written request
from a current or former employee, or his or her representative, the employer
shall also provide a copy of the personnel records, later than 30 calendar
days from the date the employer receives the request...

11 (k) If an employer fails to permit a current or former employee, or his or her
12 representative, to inspect or copy personnel records within the times specified in
13 this section... the current or former employee may recover a penalty of seven
hundred fifty dollars (\$750) from the employer.

14 (1) A current or former employee may also bring an action for injunctive relief
15 to obtain compliance with this section and may recover costs and reasonable
16 attorney's fees in such an action.

17 113. Additionally, pursuant to IWC Wage Order No. 4, at section 7 re: Records,
18 employers are required to keep accurate payroll records on each employee, and such records must
19 be made readily available for inspection by the employee upon reasonable request. The employer
20 must also maintain accurate production records.

21 114. On or about August 2, 2024, Plaintiff's counsel issued a written request to
22 Defendant for copies of his personnel records.

23 115. Under California Labor Code Sections 226, 432 and 1198.5, such records were to
24 include all records relating to Plaintiff's hours worked, wage statements and compensation.
25 Plaintiff's counsel and Defendant did not enter into an agreement to enlarge the time for
26 Defendant's compliance, and Defendant has failed and refused to permit Plaintiff copies of his
27 records.

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1 116. As a direct result and consequence of Defendant's failure and refusal to permit
2 Plaintiff full access to his records, Plaintiff seeks injunctive relief in the form of an order or decree
3 mandating Defendant's compliance. Plaintiff has suffered and will suffer harm as a result of
4 Defendant's ongoing refusal to comply. Plaintiff also seeks recovery of the statutory penalty of
5 \$750 based upon Defendant's violation of §1198.

6 **NINTH CAUSE OF ACTION**

7 **UNFAIR COMPETITION**

8 **(Business & Professions Code §§ 17200 *et seq.* By Plaintiffs Against Defendant and Does 1**
9 **through 100)**

10 117. Plaintiff and the Class reallege and incorporate by reference all of the allegations
11 set forth in this First Amended Complaint.

12 118. Pursuant to IWC Wage Order No. 4, Defendant was the employer of Plaintiff and
13 the Class. Defendant is also a "person" as that term is defined in Business & Professions Code
14 §17021.

15 119. The Business & Professions Code defines unfair competition as any unlawful,
16 unfair, or fraudulent business practice. At all times relevant herein, by and through the conduct
17 described herein, Defendant has engaged in unfair and unlawful practices by failing to (1) pay
18 Plaintiff and the Class overtime compensation; (2) pay minimum wages due to rounding; (3) pay
19 Plaintiff and the Class meal periods improperly afforded, (4) pay Plaintiff and the Class rest
20 periods improperly afforded, (5) furnish Plaintiff and the Class with accurate itemized wage
21 statements, as mandated by the applicable Labor Code and Industrial Welfare Commission
22 requirements, (6) pay all wages on termination, (7) unlawfully deducting wages, (8) provide
23 personnel records, all in violation of Business & Professions Code §§ 17200 *et seq.*

24 120. By and through the unfair and unlawful business practices described herein,
25 Defendant has obtained valuable property, money and services from the Plaintiff and the Class
26 and has deprived them of valuable rights and benefits guaranteed by law all to the detriment of
27 Plaintiff and the Class.

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1 121. All the acts described herein are violations of, among other things, the Labor Code
2 and Industrial Commission Wage Order No. 4, are unlawful and in violation of public policy; and
3 in addition are immoral, unethical, oppressive, and unscrupulous, and thereby constitute unfair
4 and unlawful business practices in violation of Business & Professions Code §§ 17200 *et seq.*

5 122. Plaintiff and the Class are entitled to, and do, seek such relief as may be necessary
6 to restore to them the money and property which Defendant has acquired, or of which Plaintiff
7 and the Class have been deprived by means of the above-described unfair and unlawful business
8 practices.

9 123. Plaintiff and the Class are further entitled to, and do, seek a declaration that the
10 above-described business practices are unfair and unlawful, and that injunctive relief should be
11 issued restraining Defendant from engaging in any of the above-described unfair and unlawful
12 business practices in the future.

13 124. Plaintiff and the Class have no plain, speedy, and/or adequate remedy at law to
14 redress the injuries which they have suffered as a consequence of the unfair and unlawful business
15 practices of Defendant. As a result of the unfair and unlawful business practices described above,
16 Plaintiff and the Class have suffered and will continue to suffer irreparable harm unless Defendant
17 is restrained from continuing to engage in these unfair and unlawful business practices. In
18 addition, Defendant should be required to disgorge the unpaid moneys to Plaintiff and the Class.

19 **TENTH CAUSE OF ACTION**

20 **(Damages Pursuant to Private Attorney General Act Against Defendant)**

21 125. Plaintiff brings this action on his own behalf and on behalf of all current and
22 former employees of Defendants who were employed in California for the previous four years,
23 seeking to recover unpaid minimum wages and overtime, penalties for missed meal and rest
24 periods, among other things, as set forth in this pleading.

25 126. On August 2, 2024, Plaintiff, pursuant to California Labor Code §§ 2699, *et seq.*,
26 by and through his attorneys, uploaded a Private Attorney General Act (“PAGA”) claim to the
27 State of California Labor and Workforce Development Agency (“LWDA”) and sent a letter via
28 Certified Mail Return Receipt Requested to Defendant.

1 127. More than 65 days have passed since the above letter, and Plaintiff's counsel has
2 not received a notice from the LWDA stating an intention to prosecute Plaintiff's PAGA claims.

3 128. Plaintiff has complied with the administrative exhaustion requirements of PAGA.

4 129. Plaintiff seeks Labor Code penalties, attorneys' fees and costs, in an amount
5 according to proof at trial as provided by the Labor Code Private Attorney General Act.

6 **PRAYER FOR RELIEF**

7 WHEREFORE, Plaintiff respectfully prays that this Court enter judgment in his favor
8 and against Defendant as follows:

9 1. For compensatory damages in the amount of unpaid overtime due to Plaintiff and
10 Class Members, according to proof;

11 2. For compensatory damages in the amount minimum wages due to Plaintiff and
12 Class Members, according to proof;

13 3. For payment of unpaid wages in accordance with California labor and
14 employment law;

15 4. For one (1) hour of pay at the regular rate of compensation for Plaintiff and Class
16 Members for each workday that a meal period was not properly provided;

17 5. For one (1) hour of pay at the regular rate of compensation for Plaintiff and Class
18 Members for each workday that a meal/rest period was not properly provided;

19 6. For an award of all amounts unlawfully deducted from Plaintiff' and members of
20 the Class's wages;

21 7. For an award of consequential damages in Plaintiff and Class Members' favor and
22 against Defendant, in an amount to be proven at trial;

23 8. For statutory damages pursuant to *Cal. Lab. Code* §226, according to proof;

24 9. For payment to Plaintiff and Class Members of waiting time penalties pursuant to
25 *Cal. Lab. Code* §203, in an amount equal to their respective daily rates of pay at the time of
26 termination or layoff, multiplied by the total amount of days elapsed between the date of the
27 involuntary termination, and/or 72 hours after notice of the voluntary termination, up to a
28 maximum of 30 days' pay, according to proof;

1 10. For specific relief, enforcing waiting time penalties of 30 days of per diem wages
2 pursuant to *Cal. Bus. & Prof. Code* §17200 and *Cal. Lab. Code* §203, according to proof;

3 11. For reasonable costs, including attorneys' fees, in an amount according to proof
4 pursuant to *Cal. Labor Code* § 2699(g);

5 12. For prejudgment interest accrued on all due and unpaid overtime and minimum
6 wages from the date that wages were due and payable, pursuant to *Cal. Lab. Code* §§218.6 and
7 1194(a), according to proof;

8 13. For statutory penalties pursuant to *Cal. Lab. Code* §§ 558, 226.7, 1198.5,
9 according to proof;

10 14. For civil penalties pursuant to *Cal. Labor Code* §1198 and Wage Order No. 4;

11 15. For reasonable costs, including attorneys' fees, in an amount according to proof
12 pursuant to, *inter alia*, *Cal. Labor Code* §§1194, 1198.5(1), 218.5 and/or *Cal. Code of Civ. Proc.*
13 §1021.5;

14 16. For an award of restitution of wages to Plaintiff and Class members in an amount
15 equal to the amount of wages owed and unpaid, according to proof;

16 17. For injunctive relief requiring Defendant to comply with *Labor Code*
17 1198.5(b)(1);

18 18. For injunctive relief ordering the continuing unfair business acts and practices to
19 cease, as the Court deems just and proper;

20 19. For other injunctive relief ordering Defendant to notify Plaintiff and Class
21 members that they have not been paid the proper amounts in accordance with California law;

22 20. For punitive and exemplary damages in a sum to be determined at trial; and

23 21. For such other and further relief as the Court deems just and proper.

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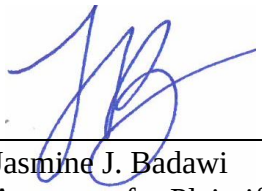
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DEMAND FOR JURY TRIAL

Plaintiff Deshawn Williams hereby respectfully requests a trial by jury for all claims and issues raised in his First Amended Complaint that may be entitled to a jury trial.

Date: October 15, 2024

LIPELES LAW GROUP, APC

By:  _____

Jasmine J. Badawi
Attorneys for Plaintiff,
DESHAWN WILLIAMS